

Prepared by Marcus Amman, Story County Planning and Development Department, 900 6th Street,
Nevada, Iowa 50201 515-382-7245

**STORY COUNTY, IOWA
CERTIFICATE OF VARIANCE
AND WRITTEN FINDINGS OF FACT**

IN THE MATTER OF THE APPLICATION OF: : **CASE NO. VAR06-19**
Ballard Golf and Country Club, 30608 US :
Highway 69, Huxley, IA 50124, for the request of :
a Variance for two existing accessory :
structures, located on the NW SE & NE SE of :
Section: 14 Township: 82 Range: 24, Palestine :
Township, (Parcel ID Number 13-14-400-105) :
: :
: :

On January 15th, 2020, the Story County Board of Adjustment approved the Variance CASE NO. VAR06-19 for the request of a 26 foot Front Setback Variance from 50 feet to 24 feet for two existing accessory structures with the following conditions:

1. Permits for the two accessory structures must be obtained within 30 days of the Board of Adjustment action.
2. Business sign lighting must be discontinued

VOTE: **Ayes:** **Neubauer, McGill, Winfrey, Schneider**
 Nayes:
 Absent: **Brekke**
 Vote: **(5-0)**

Written Findings of Fact

Case Summary: The request is for a variance to the minimum side setback for an existing accessory structure located in the A-1 District for other permitted uses, which establishes a minimum side setback of 50 feet. The variance request is to permit the existing 24'x35' (840 square feet) and 23'x33' (783 square feet) accessory structures that encroach on the side setback requiring a variance of 26 feet from 50 feet to 24 feet, from the closest point of the proposed building to the south property line. The existing accessory structures were built as part of the Ballard Golf and Country Club in 1975 but were never issued zoning permits. The property is located in Section 14 of Palestine Township parcel number 13-14-400-105. Planning and Development Staff is recommending approval of the variance with conditions. The Story County Board of Adjustment approved the variance with conditions on January 15th, 2020.

Marcus Amman, Story county Planning and Development Planner, reviewed the Variance Application, site plans, written narrative and other related submittal materials and responses from the applicant to County staff comments in accordance to Chapter 92 Conditional Uses of the Story County Land Development Regulations. Amman presented the staff report at the January 15th, 2020, Story County Board of Adjustment meeting.

Variance Permit Analysis

A. Finding of unnecessary hardship

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone;

Applicant Comment: *Both of the accessory buildings in the southwest corner of the property were constructed in 1975 and have been used as the golf course maintenance buildings since that time.*

Staff Comment: The principle of reasonable return asks the Board to consider if, without a variance, a property owner cannot establish any beneficial use on their property.

The golf course is an established use that has operated on the property for 45 years. The golf course has operated as a permitted use, legal non-conforming use, and the applicant is currently requesting a CUP to bring the use into conformance with the county's regulations. The existing accessory structures were built as the maintenance shops for the golf course and country club. Without these structures the golf course would not function as it currently does. These buildings are associated with the primary use.

2. The plight of the owner is due to unique circumstances and not to general conditions in the neighborhood which may reflect the unreasonableness of the Ordinance itself; and

Applicant Comment: *Both of the accessory buildings in the southwest corner of the property were constructed in 1975 and have been used as the golf course maintenance buildings since that time.*

Staff Comment: The existing accessory structured have been in this location since 1975. Had the golf course applied for zoning permits for these buildings when they applied for the zoning permits for the golf course, country club, and the dam, the structures would have met the required side setbacks at the time of 10 feet. Story County in June of 1977 removed golf courses from the list of permitted uses in the A-1 District. Golf courses then became a conditional use and now falls under the other permitted uses category in the A-1 District setback requirements. This requirement is 50 feet in the A-1 District.

3. The use to be authorized by the variance will not alter the essential character of the locality.

Applicant Comment: *These buildings have never changed in use and have been in the same location since constructed.*

Staff Comment: The golf course and country club has been at this location since 1975. The maintenance sheds have been there since 1975 as well. Granting the variance for the associated structures to the primary use that have both been in there existing locations for 45 years will not change the essential character of the locality. The existing landscaping to the south is providing some buffering to the structures.

B. Granting the variance will not be contrary to the public interest; and

Applicant Comment: *Both buildings will continue to be used in the same way they have been for the last 45 years, and have caused no harm to the community or neighbors where they are located.*

Staff Comment: Granting the variance would not be contrary to the public interest of the Land Development Regulations to protect public health, safety, and welfare without significant investments/improvements made to the subject property.

The golf course and country club has been at this location since 1975. The

maintenance sheds have been there since 1975 as well. Granting the variance for the associated structures to the primary use that have both been in there existing locations for 45 years will not be contrary to the public interest. The structures are located near the access and driveway and the applicants adjacent parcel to the south also assists in increasing the distance to the adjacent outlot to the south that is not owned by the applicant. The accessory structures will be separated from the road by an existing setback of 112 feet or more from the right-of-way.

C. The spirit and intent of the Story County Development Plan and Story County Land Development Regulations are protected.

Applicant Comment: *Yes/True*

Staff Comment: The Story County Comprehensive Plan and the Story County Land Development Regulations have similar spirits/intents to maintain the county's rural character.

The Statement of Intent for the A-1 Agricultural Zoning District is:

“The A-1 District is intended and designed to accommodate land uses compatible with agriculture and to protect agricultural land from encroachment of urban land uses. The County Development Plan designates priority agricultural land as Agricultural Conservation Areas. These areas are intended to preserve rural character by limiting the development of most new non-farm dwellings to large lots. In some instances, the A-1 District permits non-farm residential development on smaller lots in furtherance of the County Development Plan goals and objectives.”

This property is located in the Story County A-1 district. The property is designated Natural Area to include parks. The primary land use of the subject parcel is the golf course and country club which has been on the property since 1974. The subject property includes the golf course, club house, and 5 other accessory structures with no area in agriculture production.

Comments from the Interagency Review Team

The complete application was forwarded to the members of the Interagency Review Team on Thursday, January 2nd, 2020. The following comments were received:

Story County Environmental Health: No Comments

Story County Engineer: No Comments

Story County Assessor: No Comments

Story County Planning and Development: (Applicant responses are in bold.)

1. Please identify the Side property line. **Side Property pins were identified. A stringer was placed between them to obtain the current side setback of 24 feet.**
2. How did you identify the side property line? **Side property pins were identified using Beacon as a starting point and metal detecting for the pins.**
3. Please explain how this is a unique circumstance that was created not by you? **The building were included on when the initial golf course was approved. The ordinance was changed to remove this use.**
4. Please provide proposed drawings? **Provided**

Comments from Cities within Two Miles

Notification was provided to the City of Huxley on December 7th, 2020. No comments were received from the City of Huxley at the time of the writing of this report.

Comments from the General Public

Notification letters were mailed to surrounding property owners regarding the variance request on December 27th, 2019. No comments were received at the time of the writing of this report.

Public Hearing comments from the Board of Adjustment Meeting – January 15th, 2020

Amman presented the staff report and stated that this request is for a variance of 26 feet from the A-1 District front setback requirement of 50 feet. Amman stated that the buildings were built when the rest of the golf course was built in 1975. During that time the side setback in the A-1 district was 10 feet for the golf course use. Had the golf course applied for permits for these buildings when they applied for the golf course, dam, and country club, these buildings would have been in conformance. The golf course applied for a conditional use permit to bring the golf course into conformity with the current land use regulations and applied for the variance at the same time as the conditional use permit. This variance is necessary to bring the property into conformance. The property pins were located and it was noted that the current structures are 24 feet from the side property line. The applicant also owns a 15 foot wide adjacent parcel to the south making the closest property not owned by the applicant 39 feet away.

Sam Weeks and Matt Gatchel, Ballard Golf and Country Club representatives, were available to answer questions at the meeting.

Neubauer, acknowledged that golf courses were removed in 1977 and asked when the setback was changed to 50 feet. Amman explained that the current standard is 50 feet and that the variance must be based on the current standard.

McGill, stated that had they applied for permits at the time of construction the existing buildings would have met the side setbacks. Amman confirmed.

No one from the public was in attendance.

Points to Consider for the Variance Request

1. The accessory structures have been at their current location since 1975.
2. Having equipment to maintain the golf course is essential to their operation.
3. Had zoning permits been applied for at the time of the construction of the accessory structures they would have met setback requirements.
4. The granting of the variance is not contrary to the public interest.
5. The golf course is an established use and is essential to the character of the locality.
6. The property owner also owns a 15 foot wide adjacent parcel to the south of the subject property making the distance from the building to a parcel not owned by the Ballard Golf and Country Club 39 feet.

The Board of Adjustment approved (vote 4-0) the Variance with the conditions as identified below, as recommended by the Planning and Development Staff based on the information provided in the staff report, site review, material provided by the applicant in the submittal, responses to questions/comments, and meeting discussion as put forth in case VAR06-19:

- 1. Permits for the two accessory structures must be obtained within 30 days of the Board of Adjustment action.
- 2. Business sign lighting must be discontinued

Board of Adjustment Action on Written Findings of Fact

Date: February 19th, 2020
VOTE: Ayes Nays
McGill
Brekke
Neubauer
Schneider
Winfrey

Vote:

Chair: _____